

# REASONS

HUMBLY OFFER'D

Against the BILL, Entituled, *An ACT  
for the Sale of the Forfeited Estates.*

**B**Y this Bill the Commissioners are empower'd to summon *all Persons whatsoever*; which Words are so general, that Peers are not exempted.

The Penalty for not appearing is 40 *l.* and the Party is to be Imprison'd till Payment thereof.

Whoever appears, and refuses to be examin'd *upon Oath*, is to be Imprison'd till he submits to such Examination.

That the Peers should be subjected to such Summons, Penalty, Examination, and *Imprisonment upon Neglect or Refusal*, is contrary to a Fundamental Rule of the Common Law, which allows no *Capias* against a Peer, and guards him from being imprisoned for any Debt, or Sum of Money.

And besides, the very Jurisdiction of the House of Lords is infringed by this Bill.

Our antient and known Constitution makes them the *Dernier Resort*; but this Bill makes the Judgment of the Delegates final, without any Appeal to the House of Peers.

As the Jurisdiction of the Commissioners will be extraordinary, so will the Nature of the Evidence, upon which they determine Claims, be very unequal.

The Witnesses, who swear to support a Claim, are to be lyable to the Punishments of Perjury; but they are not so, who swear against it. What Perjury, what Oppression this may produce, may rather be imagin'd than express'd.

Another Hardship upon the Claimants is, that the Commissioners may refuse all Affidavits relating to the Title, tho' made even before the Judges in *London*.

But had they been bound to take Affidavits made before the Judges as Evidence, yet that wou'd not have been sufficient to have prevented great Injustice being done; for the Forfeited Estates lying at such a Distance as *Lancashire, Durham, and Northumberland*, many of the Witnesses for the Claimants may be incapable, thro' Age and Infirmary, to come up to *London* to make such Affidavits, or to be examin'd *viva Voce*.

This Bill is likewise prejudicial to innocent Reversioners, where the forfeiting Persons are barely Tenants for Life, *without any Power to commit Waste*; for tho' the Reversioner hath duly enter'd and justly recover'd his Claim, yet, doubtless, the Purchasers of the Estates for Life having but an uncertain Term, will be tempted to commit Waste to harass both the Land and Tenants, to the great Loss of the Reversioner.

And farther, Jointures, Protestant-Mortgagees, Annuitants, and several honest innocent Creditors, have already suffer'd too much; for tho' two Years Rents have been already receiv'd from the Estates out of which they claim, and they have been so long kept from their Debts and Subsistence, yet this Bill makes them no Compensation, nor does it provide for their being reimburs'd the Charges of Prosecuting their just Claims.

Nay, the Protestant-Mortgagees, whose Securities have been thus impaired, are, when they are put into Possession, to remain Perpetual Bailiffs to the Estates, since they have not by this Bill, Liberty to foreclose.

Over and above all these Hardships, there is One which affects every Body, who hath any Claim before the Commissioners.

The Publick has provided a handsome Allowance for the Commissioners, and those employed under them, and for all incident Charges; and yet their Officers have exacted exorbitant Fees, and no Care is taken in this Bill to prevent that Grievance.



When an Act passed in the Reign of King *Charles* the Second, for Determining Differences about Re-building *London*, (after the Fire) none but the Judges were thought proper to compose the Judicature; and those Great Men, the then Lord Keeper *Bridgman*, and Chief Justice *Hales*, who drew the Act, inserted a Clause to fix the Fees.

If such Care was then thought necessary, sure it is so now, when many of the Claimants are indigent Persons, nay Infants, who are so far from being able to bear a great Expence in Prosecuting their Right, that they are now destitute even of Subsistence.

To conclude; It may without any Reflection upon the present Commissioners, be humbly presumed, that the Judges, who are Persons of known Integrity and Learning, Men skilled in the Prerogative Law, and conversant with all Matters relating to Forfeitures, and as skilful in Discovering Frauds, are as fit as the Commissioners to be erected into a Judicature to determine in a summary Way these Claims, reserving an Appeal from their Judgments to the House of Lords.

*All which is humbly submitted.*

R E A S O N S

H U M B L Y O F F E R ' d

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